

STATEMENT OF
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VETERANS OF FOREIGN WARS OF THE UNITED STATES
BEFORE THE
COMMITTEE ON VETERANS' AFFAIRS
SUBCOMMITTEE ON DISABILITY ASSISTANCE AND MEMORIAL AFFAIRS

WITH RESPECT TO

**H.R. 303, H.R. 1302, H.R. 1338, H.R. 1380, H.R. 1384, H.R. 2001, H.R. 2214, H.R. 2605,
and Draft Legislation**

WASHINGTON, DC

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MR. CHAIRMAN AND MEMBERS OF THE SUBCOMMITTEE:

On behalf of the men and women of the Veterans of Foreign Wars of the United States (VFW) and our Auxiliaries, thank you for the opportunity to offer our thoughts on today's pending legislation.

H.R. 303, Retired Pay Restoration Act

The VFW strongly supports this legislation, which would allow all military retirees to receive VA service-connected disability compensation without forfeiting any portion of their retirement pay, commonly known as concurrent receipt. This is currently only available to veterans who are rated at least 50 percent disabled and have completed 20 or more years of service.

Military retired pay and VA service-connected disability compensation are fundamentally different benefits, granted for different reasons. Military retired pay is earned by 20 or more years of service in the Armed Forces, allowing retirees to maintain their standard of living while attempting to enter the civilian job market for the first time in the middle of their prime working years. Service-connected disability compensation is a benefit meant to supplement a veteran's lost earning potential as a result of the disabilities he or she incurred while in service. Military retirees with service-connected disabilities do not enjoy the same earning potential as nondisabled retirees. Therefore, the VFW believes it is critical that all disabled retirees are able to collect both benefits without offset, in order to grant them true parity with their nondisabled counterparts.

The VFW is pleased that H.R. 303 would also allow for full concurrent receipt for chapter 61 retirees and those who receive both service-connected disability compensation and combat-related special compensation. In doing so, this legislation is fully consistent with VFW Resolution #415, and we urge its swift passage.

H.R. 1302, VA Appeals Backlog Relief Act

This legislation calls for the regional offices to certify all disability claims appeal forms to the Board of Veterans' Appeals no later than one year after receipt of the form. While the VFW agrees with the intent of this legislation, we recommend this effort be studied as a pilot before full implementation. We have seen how placing unstudied time constraints on VA's processes can lead to employees and managers making bad decisions in an effort to meet an untested timeline. Without understanding the current process and developing efficiencies that can and should take place, VA will be subject to an arbitrary deadline of productivity, without truly knowing how long the process should take.

H.R. 1338, Dignified Interment of Our Veterans Act of 2015

The VFW supports H.R. 1338. In January 2013, Public Law 122-260 was signed, allowing the National Cemetery Administration (NCA) to provide quicker and more dignified burials for veterans who pass away with no known next-of-kin. Prior to this law, funeral directors and medical examiners used a patchwork of their own resources and assistance from their local communities to provide burial services for these veterans. Because of this law, there is improved communication between VA and funeral directors, and VA has the authority to provide caskets or urns, and pay for the cost of the funerals and burials for veterans with no known next of kin.

While these improvements are important in providing dignified burials for all veterans, it is equally important to ensure these new provisions are working effectively. H.R. 1338 does just that. It calls for a study of NCA's interment process of unclaimed remains, to include the estimated number of unclaimed remains that VA processes, and the overall effectiveness of the procedures used to communicate with funeral directors and medical examiners. The VFW believes that every effort must be made to get end of life services right for our most vulnerable veterans – those with no next of kin.

H.R. 1380, to amend title 38, U.S.C., to expand the eligibility for a medallion furnished by the Secretary of Veterans Affairs to signify the veteran status of a deceased individual.

Currently, VA may furnish a medallion for placement on a headstone or marker for graves that are marked with a private headstone or marker for veterans who died on or after November 1, 1990. This bill rightfully expands this honor to all veterans regardless of their date of death. The VFW fully supports this legislation.

H.R. 1384, Honor America's Guard-Reserve Retirees Act

The VFW strongly supports this legislation, which would give the men and women who choose to serve our nation in the Reserve component the recognition that their service demands. Many who serve in the Guard and Reserve are in positions that support the deployments of their active duty comrades, making sure the unit is fully prepared when called upon. Unfortunately, some of these men and women serve at least 20 years and are entitled to retirement pay, TRICARE, and other benefits, but are not considered a veteran according to the letter of the law. Passing this bill into law will grant these Guard and Reserve retirees the recognition their service to our country deserves.

H.R. 2001, Veterans 2nd Amendment Protection Act

The VFW supports H.R. 2001, which would provide a layer of protection for veterans who might be seeking or undergoing mental health care for service-related psychological disorders from losing their Second Amendment right. Adding a provision that will require a finding through the legal system that the veteran's condition causes a danger to him or herself or others will prevent a veteran's name from being automatically added to federal no-sell lists.

H.R. 2214, Disabled Veterans' Access to Medical Exams Improvement Act

The VFW supports this legislation which would extend the authority of VA to contract with non-VA physicians to perform disability examinations. This authorization has been invaluable, allowing VA physicians to focus on providing direct medical care, while providing for the timely completion of evaluation exams through these contracts. Having been extended several times since 2003, the authority to allow contract physicians to conduct VA disability evaluations expires on December 31, 2015. By extending that authority through 2017, this legislation would ensure that VA has the necessary tools to maximize veterans' access to direct medical care through VA by freeing VA physicians from the added responsibility of conducting disability evaluations.

H.R. 2605, Veterans Fiduciary Reform Act of 2015

The VFW supports the intent of H.R. 2605. Protecting veterans from fraudulent fiduciaries, providing them an appeal process to have a new fiduciary appointed and ensuring veterans are capable of managing their own finances is critical.

However, it is unclear to the VFW whether or not due process will be violated by this bill's proposed changes to Paragraph 5502 of title 38 U.S.C., which will allow the Secretary to appoint a fiduciary prior to the determination of incompetency. This would be counter to the due process provision provided in 38 C.F.R. paragraph 3.353 (d) and (e), which provide for the presumption of competency prior to a court order or competency hearing.

We look forward to working with Congressman Johnson to ensure the intent of this bill is realized and that veterans' due process is protected in the process.

Draft Legislation, Veterans National Remembrance Act

The VFW supports the NCA's analytical system of identifying locations that have a need for veteran burial options, which currently sets the threshold at 80,000 veterans within a 75 mile radius. But missing from this analytical approach is a transparent prioritization of those areas that qualify for a National Cemetery under the threshold. This legislation would place states that do not currently have a National Cemetery at the top of the priority list for future cemetery development. Only after the establishment of two cemeteries in states that previously did not have a National Cemetery could the Secretary waive the priority requirement.

The VFW cannot support this legislation as written. The VFW would support if the bill were amended to place all locations that qualify, or will qualify, for the establishment of a National Cemetery within a specified period of time on a priority list that provides preference to states that currently do not have a National Cemetery when all other factors are equal. The VFW looks forward to working with Congresswoman Titus to find a compromise that will bring National Cemeteries to states that do not have one, while ensuring all veterans' burial needs are met.

Draft Legislation, Veterans' Survivors Claims Processing Automation Act

The VFW supports this legislation, which would allow VA to pay benefits to veterans' survivors who have not filed formal claims, so long as there is sufficient evidence in the veteran's record to establish eligibility. Covered benefits would include Dependency and Indemnity Compensation (DIC), Death Pension, funeral expenses, and accrued benefits. This would allow expedited access to benefits for survivors, while also giving VA an additional tool to reduce the claims backlog by issuing decisions more quickly.

Often, veterans' records already include the documents necessary to grant benefits to his or her survivors. Such documents may include DD Form 214, service-connected disability ratings, medical records, and household income information. The VFW believes that in no instance should a survivor be made to fill out unnecessary paperwork or resubmit evidence when adequate documentation is already on file. We do believe, however, that the survivor should also have the opportunity when providing notification of the veteran's death to submit necessary documents that may not be contained in the record, such as the death certificate, without the need to file a formal claim. Additionally, we believe that this legislation should require VA to issue a report on how many survivors are granted benefits under this authority, in order to ensure that it is properly utilized at all VA Regional Offices and Pension Management Centers.

Chairman Abraham, Ranking Member Titus, this concludes my testimony and I am happy to answer any questions you or the Committee members may have.

Information Required by Rule XI2(g)(4) of the House of Representatives

Pursuant to Rule XI2(g)(4) of the House of Representatives, VFW has not received any federal grants in Fiscal Year 2014, nor has it received any federal grants in the two previous Fiscal Years.

The VFW has not received payments or contracts from any foreign governments in the current year or preceding two calendar years.